

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Wasserman	Team: Team # 1	CCRB Case #: 201001607	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/09/2010 1:46 AM	Location of Incident: § 87(2)(b) and § 87(2)(b)	Precinct: 75	18 Mo. SOL 7/9/2011	EO SOL 7/9/2011	
Date/Time CV Reported Wed, 02/03/2010 4:08 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 02/03/2010 4:08 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Christopher Esposito	14205	934833	075 PCT
2. SGT Joseph Seminara	02815	935723	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Joseph Seminara	Abuse: SGT Joseph Seminara supervised the stop of § 87(2)(b)'s car.	§ 87(2)(b)
B.POM Christopher Esposito	Discourtesy: PO Christopher Esposito spoke obscenely to § 87(2)(b)	§ 87(2)(b)
C.POM Christopher Esposito	Force: PO Christopher Esposito used a chokehold against § 87(2)(b)	§ 87(2)(b)
D.POM Christopher Esposito	Abuse: PO Christopher Esposito frisked § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
E.SGT Joseph Seminara	Abuse: SGT Joseph Seminara frisked § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
F.POM Christopher Esposito	Abuse: PO Christopher Esposito searched § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
G.SGT Joseph Seminara	Abuse: SGT Joseph Seminara searched § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
H.POM Christopher Esposito	Abuse: PO Christopher Esposito threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
I.SGT Joseph Seminara	Abuse: SGT Joseph Seminara searched § 87(2)(b)'s car.	§ 87(2)(b)
J.POM Christopher Esposito	Abuse: PO Christopher Esposito refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
K.SGT Joseph Seminara	Abuse: SGT Joseph Seminara refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)

## Case Summary

§ 87(2)(b) filed a complaint with the CCRB over the phone on February 3, 2010. At about 1:45 a.m. on January 9, 2010, Sergeant Joseph Seminara and PO Christopher Esposito of the 75<sup>th</sup> Precinct pulled over the car containing § 87(2)(b) and § 87(2)(b) at § 87(2)(b) and § 87(2)(b) in Brooklyn. The following allegations resulted:

**Allegation A—Abuse of Authority:** SGT Joseph Seminara supervised the stop of § 87(2)(b) car.

**Allegation D—Abuse of Authority:** PO Christopher Esposito frisked § 87(2)(b) and § 87(2)(b)

**Allegation E—Abuse of Authority:** SGT Joseph Seminara frisked § 87(2)(b) and § 87(2)(b)

**Allegation I—Abuse of Authority:** SGT Joseph Seminara searched § 87(2)(b)'s car.

§ 87(2)(g)

**Allegation B—Discourtesy:** PO Christopher Esposito spoke obscenely to § 87(2)(b)

§ 87(2)(g)

**Allegation C—Force:** PO Christopher Esposito used a chokehold against § 87(2)(b)

§ 87(2)(g)

**Allegation F—Abuse of Authority:** PO Christopher Esposito searched § 87(2)(b) and

§ 87(2)(b)

**Allegation G—Abuse of Authority:** SGT Joseph Seminara searched § 87(2)(b) and § 87(2)(b)

§ 87(2)(g)

**Allegation H—Abuse of Authority:** PO Christopher Esposito threatened § 87(2)(b)

with the use of force. § 87(2)(g)

**Allegation J—Abuse of Authority:** PO Christopher Esposito refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)

**Allegation K—Abuse of Authority:** SGT Joseph Seminara refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)

§ 87(2)(g)

## Results of Investigation

### Civilian Statements:

#### Complainant: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) black male with black hair and brown eyes who is 6'1" and weighs 186 pounds. § 87(2)(b)

#### CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on February 11, 2010 (encl. 5A-5D). At approximately 1:45 a.m. on January 9, 2010, in the vicinity of § 87(2)(b) and § 87(2)(b) in Brooklyn, § 87(2)(b) was driving with three friends in his car, § 87(2)(b) and § 87(2)(b). When § 87(2)(b) made a right onto § 87(2)(b) an unmarked Ford Crown Victoria behind him flashed its lights and § 87(2)(b) pulled over. PO Christopher Esposito and Sergeant Joseph Seminara from the 75<sup>th</sup> Precinct approached.

PO Esposito approached § 87(2)(b)'s car on the driver's side and Sgt. Seminara approached on the passenger's side. PO Esposito directed § 87(2)(b) to put the car in park, then opened the driver's door and repeatedly told § 87(2)(b) to "get the fuck out the car". § 87(2)(b) asked PO Esposito if he wanted his license and registration and PO Esposito told him no, "get the fuck out the car, before I yank you out the car." PO Esposito pulled § 87(2)(b) by his arm out of the car.

After he was pulled out of the car, § 87(2)(b) stood with both arms up in the air and his back against the opened car door. PO Esposito had one hand against § 87(2)(b)'s rib and placed the other open hand around § 87(2)(b)'s neck for four to five seconds. PO Esposito exerted enough pressure that § 87(2)(b) could feel the hand pressing down, however he was still able to talk and breathe normally. § 87(2)(b) asked PO Esposito why he was choking him. PO Esposito told § 87(2)(b) to calm down. PO Esposito told § 87(2)(b) to get the cell phone out of his hand and slapped at § 87(2)(b)'s phone, causing it to fall into the car.

After PO Esposito released his grip on § 87(2)(b)'s neck, PO Esposito took § 87(2)(b)'s wallet out of his hand and removed his driver's license, registration and PBA card from the wallet. § 87(2)(b) § 87(2)(b) is a police officer. PO Esposito told § 87(2)(b) to walk to the back of the car, where he frisked § 87(2)(b) then placed his hands inside § 87(2)(b)'s pants pockets. PO Esposito told § 87(2)(b) "give me any reason to knock you the fuck out."

§ 87(2)(b) looked behind him and saw Sgt. Seminara frisking § 87(2)(b) § 87(2)(b) and § 87(2)(b) subsequently joined § 87(2)(b) at the back of his car. While they were at the back of the car, Sgt. Seminara searched underneath the front passenger seat.

When § 87(2)(b) asked PO Esposito for his name and shield number, PO Esposito replied that he would give § 87(2)(b) this information when § 87(2)(b) got back in his car. PO Esposito remarked that § 87(2)(b) was a "§ 87(2)(b)" because he had a red "C" on his Cincinnati Reds baseball hat. § 87(2)(b) told PO Esposito that he wore the colors because he liked the Reds. PO Esposito then asked § 87(2)(b) for the name of any player on the Reds. § 87(2)(b) said he didn't know the names of the players. PO Esposito responded, "this guy's an

asshole.” § 87(2)(b) told the officers that he was going to call IAB and the CCRB and Sgt. Seminara stated that he was not scared of the CCRB.

PO Esposito told the passengers to get back in the car and § 87(2)(b) again asked PO Esposito for his name and badge number. PO Esposito reiterated that he would provide this information when § 87(2)(b) returned to his vehicle. PO Esposito closed the door and handed § 87(2)(b) his license and registration, then returned to his vehicle and drove away without providing his name and shield number. In total, § 87(2)(b) directed his request for names and shield numbers to Sgt. Seminara once and PO Esposito about five times.

§ 87(2)(b) recorded a video of part of this incident on his Blackberry cell phone, which he sent to the investigation via email (encl. 5E-5G). § 87(2)(b) started the recording when PO Esposito came to the car and opened the door. The video shows § 87(2)(b)'s face initially, then appears to show a struggle over possession of the phone before the cell phone apparently lands in the interior of the car. PO Esposito tells § 87(2)(b) to get out of the car over fifteen times in approximately thirty seconds, telling him to “get the fuck out” several times. The audio also includes § 87(2)(b) yelling, “Why are you choking me?” while PO Esposito tells him to relax. There is no video showing what is happening while § 87(2)(b) is allegedly being choked. The recording lasts two minutes and twenty four seconds until it stops abruptly. § 87(2)(b) speculated that Sgt. Seminara stopped the recording while he was searching the car.

§ 87(2)(b) and § 87(2)(b) filed a notice of claim on § 87(2)(b) (encl. 5K-5O). § 87(2)(g) . As of June 15, 2010, no 50-H hearings had been held or scheduled.

**Victim:** § 87(2)(b)

- § 87(2)(b) is an § 87(2)(b) black male with black hair and brown eyes who is 6’0” tall and weighs 170 pounds. § 87(2)(b) works at § 87(2)(b).

**CCRB Testimony**

§ 87(2)(b) provided a phone statement on February 12, 2010 (encl. 6A). § 87(2)(b) was interviewed at the CCRB on February 18, 2010 (encl. 6B-6D). § 87(2)(g)

Once § 87(2)(b) was out of his car, PO Esposito placed either one forearm or both forearms against § 87(2)(b)'s neck for about a minute. § 87(2)(b) was unable to move as he was being pressed back against the roof of the car. § 87(2)(b) observed this through the open back driver’s side window. While PO Esposito had his forearm against § 87(2)(b)'s neck, PO Esposito told § 87(2)(b) “I’ll break your fucking face. § 87(2)(b) also saw PO Esposito frisk § 87(2)(b) down by the driver’s side door, but was not sure if PO Esposito placed his hands inside of § 87(2)(b)'s pockets.

The officers had § 87(2)(b) and § 87(2)(b) exit the vehicle. § 87(2)(b) was the last individual to leave the car. § 87(2)(b) did not see § 87(2)(b) frisked or searched. § 87(2)(b) saw § 87(2)(b) frisked, but did not see if § 87(2)(b) was searched. PO Esposito patted § 87(2)(b) down, then placed his hand inside all four pants pockets.

PO Esposito and § 87(2)(b) conversed at the back of the car. PO Esposito stated that § 87(2)(b) was a § 87(2)(b) because he was wearing a Cincinnati Reds hat. PO Esposito asked § 87(2)(b)

§ 87(2)(b) to name a player on the Reds and § 87(2)(b) could not do so. PO Esposito laughed and stated something to the effect of “I thought you watched baseball.” While § 87(2)(b) was talking with PO Esposito, Sgt. Seminara searched § 87(2)(b)’s car.

§ 87(2)(b) and § 87(2)(b) asked PO Esposito for his shield number and name four to five times while they were in back of the car. PO Esposito kept on telling them he would give them this information later. § 87(2)(b) thought § 87(2)(b) and § 87(2)(b) also asked Sgt. Seminara for his name and his shield number. § 87(2)(b) was not sure if PO Esposito or Sgt. Seminara eventually provided their names or shield numbers.

**Victim:** § 87(2)(b)

- § 87(2)(b) is an § 87(2)(b) black male with black hair and brown eyes who is 5’9” tall and weighs 169 pounds. § 87(2)(b)

**CCRB Testimony**

§ 87(2)(b) provided phone statements to the CCRB on February 12, 2010 (encl. 7A), and March 4, 2010 (encl. 7G). § 87(2)(b) was interviewed by the CCRB on February 19, 2010 (encl. 7B-7D). § 87(2)(g)

After § 87(2)(b) had been pulled out of the car, PO Esposito pressed his forearm against § 87(2)(b)’s neck, keeping it in place for two to three minutes. PO Esposito frisked § 87(2)(b) by the driver’s side door and told him to go to the back of the car. § 87(2)(b) did not see PO Esposito go into § 87(2)(b)’s pockets. The officers then had the passengers exit the vehicle. Sgt. Seminara frisked § 87(2)(b) then reached into his left front pant pocket, taking out § 87(2)(b)’s phone. Sgt. Seminara then frisked and searched § 87(2)(b) reaching into § 87(2)(b)’s pants pockets and pulling out § 87(2)(b)’s wallet and keys. § 87(2)(b) did not see § 87(2)(b) get searched. § 87(2)(b) and § 87(2)(b) stood in back of their car, facing the unmarked auto, while Sgt. Seminara searched the car.

§ 87(2)(b) did not recall PO Esposito making any comments about what § 87(2)(b) was wearing. § 87(2)(b) asked PO Esposito for his name and shield number. § 87(2)(b) asked Sgt. Seminara to see his shield twice. § 87(2)(b) also asked to see PO Esposito’s shield two to three times and Sgt. Seminara’s shield twice. PO Esposito and Sgt. Seminara told § 87(2)(b) and his friends that they would show them their shields later, but never did.

**Victim:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) black male with black hair and brown eyes who is 6’0” tall and weighs 165 pounds. § 87(2)(b)

**CCRB Testimony**

§ 87(2)(b) provided a phone statement on February 12, 2010 (encl. 8A). § 87(2)(b) was interviewed at the CCRB on March 4, 2010 (encl. 8B-8D). § 87(2)(g)

§ 87(2)(b) was frisked and searched outside of the front passenger door by Sgt. Seminara. While this was happening, § 87(2)(b) could see that § 87(2)(b) had his back against the driver’s side of the roof and PO Esposito had both hands against § 87(2)(b)’s collar area with the hands open and palms towards § 87(2)(b)’s neck, which § 87(2)(b) characterized as

“choking.” § 87(2)(b) was then taken to the back of the car, where § 87(2)(b) heard PO Esposito state, “Bro, just give me a reason. I’ll knock you the fuck out right now.”

§ 87(2)(b) corroborated that PO Esposito asked § 87(2)(b) to name a player on the Cincinnati Reds, but did not state that PO Esposito called § 87(2)(b) an asshole. § 87(2)(b) and his friends asked PO Esposito and Sgt. Seminara for their names and shield numbers five to six times. Each time they asked for this information, the officers told them to calm down and that they would get this information later. However, PO Esposito and Sgt. Seminara drove off without ever providing § 87(2)(b) and his friends with their names or shield numbers.

### **NYPD Statements:**

#### **Subject Officer: SGT JOSEPH SEMINARA**

- *Sgt. Joseph Seminara is a § 87(2)(b) -old white male with brown hair and green eyes who is 5’7” tall and weighs 150 pounds.*
- *Sgt. Seminara worked from 7:26 p.m. on January 8, 2010, to 4:10 a.m. on January 9, 2010. Sgt. Seminara was in plainclothes and working as anti-crime sergeant with PO Esposito in an unmarked, black Crown Victoria.*

#### **Memobook**

Sgt. Seminara had the following memo book entries relating to this incident (encl. 10A-10C). At 1:50 a.m. on January 9, 2010: “C/S [car stop] § 87(2)(b), U-turn, reports of gun possession from club bouncer.” At 2:02 a.m.: 93Qx4 (CPW) UF-250 prepared by PO Esposito. Three refused ID, driver § 87(2)(b) § 87(2)(b). Male uncooperative.”

#### **CCRB Testimony**

Sgt. Seminara was interviewed at the CCRB on April 7, 2010 (encl. 10D-10F). On the morning of January 9, 2010, Sgt. Seminara and PO Esposito were doing a directed patrol in the vicinity of a nightclub on § 87(2)(b) and § 87(2)(b) in Brooklyn. A little before 1:50 a.m., a large fight broke out inside of the club and over 200 people spilled out into the street. The officers drove up and asked the bouncer what was happening. The bouncer said, “Those guys just pulled a gun. They got into that red car.” The bouncer pointed to a red Chevrolet Impala about ten feet away. Sgt. Seminara saw the Impala make an illegal u-turn and then speed away.

Sgt. Seminara and PO Esposito ran back to their car and attempted to pull over the Impala belonging to § 87(2)(b) § 87(2)(b) pulled over two blocks later at § 87(2)(b) § 87(2)(b) and § 87(2)(b) Sgt. Seminara approached the passenger’s side of the car and PO Esposito approached the driver’s side. Sgt. Seminara heard PO Esposito ask § 87(2)(b) to step out of the car over 15 or 20 times. After repeatedly asking § 87(2)(b) to step out of the car, PO Esposito said, “Get the fuck out of the car.”

Sgt. Seminara was speaking with the front passenger when he heard § 87(2)(b) say, “Get your hands off my neck.” Sgt. Seminara ran around the vehicle to see if PO Esposito and § 87(2)(b) were fighting. Sgt. Seminara saw that PO Esposito’s hands were down by his waist and he was standing in a bladed stance while § 87(2)(b) was leaning against the car. Sgt. Seminara never saw PO Esposito’s hands on § 87(2)(b)’s throat. PO Esposito said, “What are you talking about?” § 87(2)(b) repeated, “Get your hands off my neck.” Sgt. Seminara said,

“No one’s hands are on your neck.” Once Sgt. Seminara determined that § 87(2)(b) was not being choked, he went back around to the other side of the car to deal with the other passengers.

PO Esposito frisked § 87(2)(b) and § 87(2)(b) while Sgt. Seminara frisked § 87(2)(b) and § 87(2)(b). Everyone but § 87(2)(b) was compliant. Sgt. Seminara did not search § 87(2)(b) or § 87(2)(b) because he did not feel any hard objects in their pockets. After frisking the occupants of the car, the officers had them step to the rear of the vehicle.

Once everyone was at the back of the car, PO Esposito motioned to Sgt. Seminara that there was a weapon in the car. Sgt. Seminara searched the lungeable, grabbable areas of the car around where people were sitting. Sgt. Seminara felt under the two front seats and around the center console. There was a large kitchen knife stuffed between one of the front seats and the center console. Sgt. Seminara was not sure if he searched the back of the car.

After searching the vehicle, Sgt. Seminara went to the rear of the car. § 87(2)(b) asked for the shield numbers of both officers and they provided this information. Sgt. Seminara said, “I’m his sergeant, Sgt. Seminara, shield 2815, and that’s my [license] plate number.” Sgt. Seminara did not hear PO Esposito threaten to use force against § 87(2)(b) or say anything to the effect of, “Give me a reason to knock you the fuck out.” Sgt. Seminara did not hear PO Esposito call § 87(2)(b) an “asshole.”

**Subject Officer: PO CHRISTOPHER ESPOSITO**

- *PO Christopher Esposito is a § 87(2)(b)-old white male with black hair and hazel eyes who is 5’10” tall and weighs 240 pounds.*
- *PO Esposito worked from 7:30 p.m. on January 8, 2010, to 4:05 a.m. on January 9, 2010. PO Esposito was in plainclothes and assigned to anti- crime with Sgt. Seminara in an unmarked, black Crown Victoria.*

**Memobook**

PO Esposito had the following memo book entries relating to this incident (encl. 9A-9B). At 1:50 a.m. on January 9, 2010: “car stopped for illegal U-turn at § 87(2)(b). Also reports from club security.” At 2:02 a.m.: “93Qx4—three refused. Driver—§ 87(2)(b) § 87(2)(b) D/O/B § 87(2)(b) 5’9” 130 pounds.”

**Stop and Frisk Reports**

PO Esposito filled out stop and frisk reports, or UF-250s, for § 87(2)(b) § 87(2)(b) and three black males who refused their names. These four individuals were stopped at § 87(2)(b) and § 87(2)(b) in Brooklyn at 1:50 a.m. on January 9, 2010 (encl. 9C-9J). All four individuals were suspected of criminal possession of a weapon and the circumstances leading to the stop of all four individuals was “furtive movements.” All four individuals were frisked, but not searched, and the officers identified themselves by “verbal shield.”

§ 87(2)(b) was frisked for the following reasons: “inappropriate attire—possibly concealing weapon,” “refusal to comply with officers directions,” “violent crime suspected,” “furtive movements” and “actions indicative of engaging in violent crimes.” The following additional factors were listed: “area has high incidence of reported offense,” “time of day/week corresponding to criminal activity,” “proximity to scene of suspected offense,” “evasive, false, inconsistent responses to officers questions,” “changing directions at the sight of officer” and “ongoing investigation.”

§ 87(2)(g)

Two of the UF-250s for “refused” also gave as an additional factor, “report from victim/witness/officer.” One of the stop and frisk reports for “refused” listed his demeanor as “box cutter in plain view.”

### **CCRB Testimony**

PO Christopher Esposito was interviewed by the CRRB on March 25, 2010 (encl. 9K-9M).

§ 87(2)(g)

PO Esposito stated that he opened the door of the car and pulled § 87(2)(b) out by his shirt. PO Esposito frisked § 87(2)(b) while holding § 87(2)(b) with one hand against his chest. PO Esposito felt around § 87(2)(b)'s waist, back, torso and legs, but did not go into his pockets. PO Esposito also frisked, but did not search, § 87(2)(b). PO Esposito clarified that the “box cutter in plain view” referenced in the UF-250 referred to a steak knife by the center console in § 87(2)(b)'s car, which PO Esposito noticed when he initially approached the vehicle. PO Esposito initially did not recall if he told § 87(2)(b) to “get the fuck out of the car,” then after viewing the cell phone video taken by § 87(2)(b) stated that he told § 87(2)(b) to “get the fuck out of the car” in order to gain compliance to his order. PO Esposito did not recall if he was asked for name and his shield number. PO Esposito denied calling § 87(2)(b) an “asshole”, placing his hands on § 87(2)(b)'s neck or threatening to use force against § 87(2)(b).

### **Status of Civil Proceedings**

- § 87(2)(b) and § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), asking for unspecified damages (encl. 5K-5O).

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Civilian(s) CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) or § 87(2)(b) (encl. 3A-3D). However, § 87(2)(b) subsequently filed CCRB § 87(2)(b).

### **Subject Officers CCRB History**

- Sgt. Seminara has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. 2A).
- PO Esposito has been a member of the service for six years and there are four substantiated abuse of authority allegations against him, all in case no. 200807987. Instructions and command discipline were imposed. (encl. 2B-2C).

### **Conclusion**

### **Identification of Subject Officers**



Sgt. Seminara and PO Esposito were identified as being involved in this incident by their own statements. § 87(2)(g)

### **Allegations Not Pled**

§ 87(2)(g)

§ 87(2)(g)

### **Investigative Findings and Recommendations**

**Allegation A—Abuse of Authority: SGT Joseph Seminara supervised the stop of § 87(2)(b) car.**

It is undisputed that Sgt. Seminara and PO Esposito pulled over § 87(2)(b)'s car. Officers are authorized to stop a vehicle when they have a reasonable suspicion that the occupants of the car are committing a crime (encl. 1A). Kamins, New York Search & Seizure, 5-14 (2008 ed.). Information from a citizen-informant that an individual was seen in possession of a gun can provide officers with a reasonable suspicion that a criminal activity is afoot (encl. 1B). Kamins, 2-102.

§ 87(2)(g)

**Allegation B—Discourtesy: PO Christopher Esposito spoke obscenely to § 87(2)(b)**

It is undisputed that PO Esposito repeatedly told § 87(2)(b) to “get the fuck out the car.”

§ 87(2)(g) While § 87(2)(b) and § 87(2)(b) remembered that PO Esposito and § 87(2)(b) had a conversation about § 87(2)(b) wearing a Cincinnati Reds hat, § 87(2)(g) neither individual corroborated that PO Esposito called § 87(2)(b) an “asshole.” § 87(2)(g)

In Police Department v. Decio, Oath Index no. 1072/91 (encl. 1C-1K), it was determined that the use of profanity by officers did not constitute misconduct under the following conditions: A) the profanity is not gratuitous, intended “to intimidate or retaliate or to show a lack of respect for a citizen” and B) the profanity is intended to gain compliance to a lawful police order, which had not previously been obeyed. In NYPD v. Court, Case no. 79627/04, it was determined that the use of profanity during a stressful street encounter did not constitute misconduct (encl. 1L).

§ 87(2)(g)

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§ 87(2)(b) alleged that PO Esposito put his hands around his throat, exerting pressure without cutting off his air flow. PO Esposito and Sgt. Seminara denied that PO Esposito placed his hands around § 87(2)(b)'s neck.

and § 87(2)(b) all corroborated that PO Esposito choked § 87(2)(b) § 87(2)(g)

and § 87(2)(b) stated that PO Esposito pressed his forearm(s) against § 87(2)(b)'s neck

[illegible]

§ 87(2)(g)

and § 87(2)(b)

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\_\_\_\_\_

and § 87(2)(b)

**Allegation G—Abuse of Authority: SGT Joseph Seminara searched § 87(2)(b) and § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b) all alleged that the officers who frisked them also searched them. However, only § 87(2)(b) stated that he saw another individual—§ 87(2)(b)—get searched as well as frisked. PO Esposito and Sgt. Seminara denied searching any individuals. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation H—Abuse of Authority: PO Christopher Esposito threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) alleged that PO Esposito told him, “Just give me any reason to knock you the fuck out.” Both officers denied that PO Esposito made this statement or threatened § 87(2)(b) with the use of force. § 87(2)(b) stated that PO Esposito told § 87(2)(b) “Bro, just give me a reason. I’ll knock you the fuck out right now.” § 87(2)(b) stated that PO Esposito told § 87(2)(b) “I’ll break your fucking face.” § 87(2)(b) did not corroborate a threat of force. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation I—Abuse of Authority: SGT Joseph Seminara searched § 87(2)(b) s car.**

It is undisputed that Sgt. Seminara searched § 87(2)(b) s car. § 87(2)(g)

§ 87(2)(g)

Under the automobile exception, officers are allowed to search a car without a warrant. In People v. Carvey, the New York Court of Appeals held that officers are allowed to conduct a limited search of a car interior for weapons during an investigative car stop when there is a substantial likelihood that there are weapons in a car (encl. 10-1T). People v. Carvey, 89 N.Y. 2d 707 (1997). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation J—Abuse of Authority: PO Christopher Esposito refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)**

**Allegation K—Abuse of Authority: SGT Joseph Seminara refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b) stated that they asked PO Esposito and Sgt. Seminara for their names and shield numbers multiple times, but were not provided with this information. § 87(2)(b) corroborated that his friends asked for the officers’ names and shield numbers, but did not remember if the officers ever provided this information. Sgt. Seminara stated that both he and PO Esposito provided their names and shield numbers, while PO Esposito did not recall if he was asked for this information.

§ 87(2)(g)  
[Redacted text block]

Patrol Guide Procedure 203-09 states that an officer should “courteously and clearly state your rank, name, shield number and command, or otherwise provide them, to anyone who requests you to do so” (encl. 1U). § 87(2)(g)

[Redacted text block]

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Team: 1

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Investigator: \_\_\_\_\_  
Signature                      Print                      Date

Supervisor: \_\_\_\_\_  
Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date